

REMARKS

Amendments to the Specification

Paragraph [02] has been amended to include serial number information for incorporated references.

Amendments to the Claims

Claim 1 has been amended to add the text “without the use of a script”. The Applicants submit that no new matter has been added by this amendment.

Claim 7 has been amended to correct a noted minor typographical error. The Applicants submit that no new matter has been added by this amendment.

Claims 8, 10, 16-18, 20, 21, 22, 27, and 28 have been amended to add the text “the following:” for reasons not related to patentability, but to comply with an intervening change in the law. Please see *SuperGuide Corporation v. DirecTV Enterprises, Inc., et al*, 358 F.3d 870 (Fed. Cir. 2004). The Applicant submits that no new matter has been added by these amendments.

Claim 11 has been amended to add the text “at least one of”. Claim 11 has also been amended to add the text “the following:” not for reasons related to patentability, but to comply with an intervening change in the law. Please see *SuperGuide Corporation v. DirecTV Enterprises, Inc., et al*, 358 F.3d 870 (Fed. Cir. 2004). The Applicant submits that no new matter has been added by these amendments.

Claim 14 has been amended to add the text “the following” and to change the word “or” to “and”, for reasons not related to patentability, but to comply with an intervening change in the law. Please see *SuperGuide Corporation v. DirecTV Enterprises, Inc., et al*, 358 F.3d 870 (Fed. Cir. 2004). The Applicant submits that no new matter has been added by these amendments.

Claim 15 has been amended to delete the text “at least one of the first system and”, and to add the text “and wherein control of the at least one home appliance is accomplished without the use of a script.” The Applicants submit that no new matter has been added by this amendment.

Rejections of Claims

Claims 1-28 are pending in the application. Claims 1 and 15 are independent claims. Claims 2-14 and 16-28 depend from independent claims 1 and 15, respectively. The Applicant requests reconsideration of the pending claims 1-28, in light of the following remarks.

Claims 1, 2, 6, and 10-13 were rejected under 35 U.S.C. 102(e) as being anticipated by Ficco et al [PG Pub No. US 2002/0035404 A1, hereinafter “Ficco”]. The Applicants respectfully traverse the rejection.

Regarding claim 1 as amended, Applicants respectfully submit that Ficco does not teach, suggest, or disclose, for example, a system supporting access, monitoring, and control of appliances, the system comprising a set top box at a first location, at least one home appliance at the first location, and a local area network operationally coupling the set top box to the at least one home appliance, via a wired or wireless connection, to allow access, monitoring, and control of the at least one home appliance, without requiring the use of a script. The use of a script, as disclosed in the Ficco reference, disadvantageously requires preparation and storage of a script comprising the desired actions, in advance of the actual desire to control a device. (see e.g., Abstract, para. [0041], and paras. [0129] – [0131]) Applicants’ invention does not require the use of a script as taught by the Ficco reference in order to perform the described appliance access, monitoring, and control functions, and offers the advantage of simplified operation and greater flexibility.

Regarding claims 10-12, the Office action (page 3) alleges that “it is inherent that any device capable of being connected to the network could be monitored and/or controlled.” The Applicants’ representative respectfully disagrees. According to MPEP §2112, Sec. IV, page 2100-54,55, “[t]o establish inherency, the extrinsic evidence ‘must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. *The mere fact that a certain thing may result from a given set of circumstances is not sufficient.*” (emphasis added) The Applicants’ representative respectfully submits that devices currently exist that are capable of being connected to a network, that cannot be either monitored or

controlled by the network. For example, network diagnostic equipment that itself monitors a network normally does so without engaging in the communication of the network. Such devices may sit silently observing network activity without being able to be either monitored or controlled by the network. Many other examples also exist. For at least these reasons, the Applicants' representative respectfully submits that a rejection based upon inherency cannot be maintained.

Therefore, for at least the above stated reasons, the Applicants respectfully submit that Ficco is different from and fails to anticipate the Applicant's invention as set forth in amended claim 1. Applicants believe that claim 1 is allowable over Ficco. Because claims 2-14 are dependent upon claim 1, Ficco is different from and fails to anticipate claims 2-14, as well. Therefore, claims 2-14 are also allowable over the Ficco reference. The Applicant respectfully requests that the rejection of claims 1, 2, 6, and 10-13 under 35 U.S.C. §102(e), be withdrawn.

Claims 3-6, and 7-9 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ficco et al ("Ficco") as applied to the claims above and further in view of Sagar [PG Pub No. US 2003/0061077 A1, hereinafter "Sagar"]. The Applicants respectfully traverse the rejection.

As an initial matter, the Applicants' representative wishes to point out that item (4) on page 3 of the Office action states that claims 3-6 and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ficco et al ("Ficco") as applied to the claims above and further in view of Sagar [PG Pub No. US 2003/0061077 A1, hereinafter "Sagar"]. In light of the fact that the text of the paragraphs that follow in item (4) fail to address claim 6, the Applicants' representative assumes that the Examiner intended item (4) to address claims 3-5 and 7-9, and that the Examiner did not intend to include claim 6 in the rejection. If this is in error, the Applicants' representative requests that the Examiner contact the Applicants' representative at the number given below.

Claims 3-5 and 7-9 are dependent claims of independent claim 1. Because independent claim 1 is allowable, Applicants assert that dependent claims 3-5 and 7-9 are also allowable over the proposed combination of references. Therefore, the Applicant respectfully requests that the rejection of claims 3-5 and 7-9 under 35 U.S.C. 103(a) be withdrawn.

Claim 14 was rejected under 35 U.S.C. 103(a) as being unpatentable over Ficco et al (“Ficco”) as applied to the claims above and further in view of Edson [U.S. Patent No. 6526581, hereinafter “Edson”]. The Applicants respectfully traverse the rejection. Claim 14 is a dependent claim of independent claim 1. Because independent claim 1 is allowable, Applicants assert that dependent claim 14 is also allowable over the proposed combination of references. Therefore, the Applicant respectfully requests that the rejection of claim 14 under 35 U.S.C. 103(a) be withdrawn.

Claims 15-28 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ficco et al (“Ficco”) as applied to the claims above, further in view of Van Der Muelen [PG Pub No. US 2003/0061615 A1, hereinafter “Van Der Muelen”] and in further in view of Lee et al [PG Pub No. US 2003/0182412, hereinafter “Lee”]. The Applicants respectfully traverse the rejection. Regarding amended claim 15, the Applicant respectfully submits that the proposed combination of references, taken as a whole, does not teach, suggest, or disclose, for example, a method of providing access, monitoring, and control of appliances via a communication network, the method comprising identifying by a first system, at a first location, at least one home appliance communicatively coupled to at least one of the first system and a second system, the second system at a second location; establishing a communication link between the first system and the at least one home appliance via the communication network; verifying authorization for control of the at least one home appliance by the first system; communicating, from the first system, at least one command to the at least one home appliance via the communication network, if the verifying is successful; refraining from communicating at least one command to the at least one home appliance via the communication network, if the verifying is not successful; receiving, at the first system, at least one response from the at least one home appliance, if a command was communicated; and wherein control of the at least one home appliance is accomplished without the use of a script. The use of a script, as disclosed in the Ficco reference, disadvantageously requires preparation and storage of a script comprising the desired actions, in advance of the actual desire to control a device. (see e.g., Abstract, para. [0041], and paras. [0129] – [0131]) Applicants’ invention does not require the use of a script as taught by the Ficco reference in order to perform the

described appliance access, monitoring, and control functions, and offers the advantage of simplified operation and greater flexibility.

Therefore, for at least the above stated reasons, the Applicants respectfully submit that the Applicant's invention as set forth in amended claim 15 is allowable over the proposed combination of references. Because claims 16-28 are dependent claims of independent claim 15, claims 16-28 are allowable, as well. The Applicants respectfully request that the rejection of claims 15-28 under 35 U.S.C. §103(a), be withdrawn.

Newly added claims

New claims 29 and 30 are added by this Amendment, and are similar in many respects to the claims 1-14 that are allowable for the reasons given above. Applicants believe that these new claims are allowable for at least the same reasons that claims 1-14 are allowable. Claims 29 and 30 are dependent claims, depending from claim 1.

Conclusion

The Applicants believe that all of claims 1-30 are in condition for allowance. Should the Examiner disagree or have any questions regarding this submission, the Applicants invite the Examiner to telephone the undersigned at (312) 775-8000.

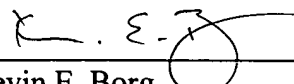
A Notice of Allowability is courteously solicited.

The Commissioner is hereby authorized to charge any additional fees associated with this communication, or credit any overpayment, to Deposit Account No. 13-0017.

Respectfully submitted,

Dated: May 19, 2005

McANDREWS, HELD & MALLOY, LTD.
500 West Madison Street
Suite 3400
Chicago, Illinois 60661
Phone (312) 775-8000
Facsimile (312) 775-8100



Kevin E. Borg
Reg. No. 51,486